


State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment VII

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2007 LRB-0173/5 (For: DCF)


has been transferred to the drafting file for

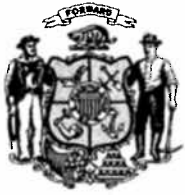
2009 LRB-4096 (For: DCF)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 01/08/2010 (Per: GMM)

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0173/6
GMM:kjf:nwn

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1862

2007 BILL

the Interstate Compact ^{ON} on the Placement of Children and

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1 AN ACT to amend 48.60 (4) (b), 48.837 (1m), 48.913 (2) (a), 48.98 (4) (a), 632.896
2 (1) (c) 3., 938.988, 938.999 (1) (b) 13. and 938.999 (3) (c); and to create 14.94,
3 20.435 (3) (d), 48.9895 and 48.99 of the statutes; relating to the Interstate
4 Compact for the Placement of Children.

Analysis by the Legislative Reference Bureau

Under current law, the Interstate Compact on the Placement of Children provides procedures for sending a child from this state to another state, placing a child from this state in an institution in another state, bringing a child from another state into this state, and placing a child from another state in an institution in this state.

The bill also

This bill creates a new Interstate Compact for the Placement of Children that becomes effective when 35 states enact the compact. The compact applies to the interstate placement of a child who is subject to ongoing court jurisdiction in a sending state due to allegations or findings that the child has been abused, neglected, or deprived and to the interstate placement of a child as a preliminary step to a possible adoption. The compact also applies to the interstate placement of a child who has been adjudicated delinquent or unmanageable and who is subject to the ongoing court jurisdiction of a sending state if the placement of the child is not covered under another interstate compact such as the Interstate Compact for Juveniles or an assessment of the placement cannot be provided through another compact.

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The compact, however, does not apply to the interstate placement of a child by his or her parent so long as the placement is not for adoption, the interstate placement of a child with a relative by a relative who has the authority to make such a placement, or the placement of a child with a noncustodial parent if the court in the sending state finds that the noncustodial parent has a substantial relationship with the child and that the placement is in the best interests of the child and dismisses its jurisdiction over the child. The compact also does not apply to a child who is entering or leaving the United States for purposes of adoption, cases in which a child living overseas with his or her family, at least one member of which is in the U.S. armed services, is removed and placed in a state, and the sending of a child to another state for a visit.

Under the compact:

1. The sending state retains jurisdiction over a child with respect to all matters of custody and disposition over which the sending state would have had jurisdiction if the child had remained in the sending state, including the power to order the return of the child.

2. Before a child is sent to a receiving state, the child placing agency of the sending state must request, and a public child placing agency in the receiving state must complete, an assessment of the proposed placement to determine the safety and suitability of the placement.

3. A child may not be placed in a receiving state until a public child placing agency in the receiving state approves the placement, unless a determination not to approve the placement is overturned on administrative or judicial review under the laws of the receiving state.

4. For the interstate placement of a child made by a public child placing agency or state court, the public child placing agency in the sending state is financially responsible for ongoing maintenance payments for the child during the period of the placement and for services for the child beyond the public services for which the child is eligible in the receiving state, and the receiving state is financially responsible for any assessment conducted by the receiving state and for supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the sending and receiving states.

5. For the placement of a child by a private child placing agency for adoption, the private child placing agency is legally responsible for the child until finalization of the adoption and financially responsible for the child absent a contractual agreement to the contrary.

The bill also creates an Interstate Commission for the Placement of Children (interstate commission) composed of a commissioner from each of the member states appointed by the governor of each member state. Each member state has one vote on the interstate commission. Under the bill, the interstate commission has various powers and duties, including the power and duty to do all of the following:

1. Promulgate rules to achieve the purposes of the compact. Rules promulgated by the interstate commission are binding on the member states and supersede any conflicting law, rule, or regulation of a member state. A majority of the legislatures

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of the member states may reject a rule. If that is done, the rule has no effect in any of the member states.

2. Provide for dispute resolution among member states and between member states and nonmember states.

3. Levy assessments on member states to cover the costs of its operations and activities.

4. Enforce compliance with the compact or the bylaws or rules of the interstate commission. If a member state defaults in the performance of any of the state's obligations under the compact, the interstate commission may provide remedial training and technical assistance, specify conditions by which the defaulting state must cure its default, enforce compliance with the compact by bringing legal action in federal court against the defaulting state, or avail itself of any other remedies available under state law or the regulation of official or professional conduct.

5. Report annually to the compacting states concerning the activities of the interstate commission during the preceding year.

6. Perform such functions as may be necessary to achieve the purposes of the compact.

A state may withdraw from the compact by repealing the statute that enacted the compact into law in that state. A withdrawal takes effect on the effective date of the repeal of that statute.

Finally, all lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission and agreements between the interstate commission and the member states, are binding on the member states, except that, if a provision of the compact exceeds a constitutional limit imposed on the legislature of a member state, that provision is ineffective in that member state to the extent of the conflict.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 14.94 of the statutes is created to read:

2 **14.94 Interstate Commission for the Placement of Children.** There is
3 created an Interstate Commission for the Placement of Children as specified in s.
4 48.99 (8). The member of the commission representing this state shall be the person
5 appointed under s. 48.99 (8) (b) 1. The commission member shall serve without
6 compensation but shall be reimbursed from the appropriation account under s.
7 20.435 (3) (a) for actual and necessary expenses incurred in the performance of the

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SECTION 1

commission member's duties. The commission shall have the powers, duties, and responsibilities set forth in s. 48.99.

SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	2007-08	2008-09
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20.435

(3) CHILDREN AND FAMILY SERVICES

(d) Interstate Compact for the
Placement of Children assess-
ments

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SECTION 3. 20.435 (3) (d) of the statutes is created to read:

20.435 (3) (d) *Interstate Compact for the Placement of Children assessments.*

The amounts in the schedule to pay assessments levied by the interstate commission for the placement of children under s. 48.99 (13) (b).

SECTION 4. 48.60 (4) (b) of the statutes is amended to read:

48.60 (4) (b) Notwithstanding ss. 121.78 (3) (a) and 121.79 (1) (a), a child welfare agency shall pay for the costs incurred by a school district in providing special education and related services to a child with a disability who has been placed with the child welfare agency under the ~~interstate compact on the placement of children~~ Interstate Compact on the Placement of Children under s. 48.988 ~~or the Interstate Compact for the Placement of Children~~ under s. 48.99.

SECTION 5. 48.837 (1m) of the statutes is amended to read:

48.837 (1m) OUT-OF-STATE ADOPTIVE PLACEMENT. ~~Notwithstanding s. 48.988~~
Subject to ss. 48.988 and 48.99, when the proposed adoptive parent or parents of a

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1 child reside outside this state and are not relatives of the child, a parent having
2 custody of a child and the proposed adoptive parent or parents of the child may
3 petition the court for placement of the child for adoption in the home of the proposed
4 adoptive parent or parents, if the home meets the criteria established by the laws of
5 the other state for a preadoptive placement of a child in the home of a nonrelative.

6 **SECTION 6.** 48.913 (2) (a) of the statutes is amended to read:

7 48.913 (2) (a) The child was placed for adoption in this state in accordance with
8 s. 48.988 or 48.99.

9 **SECTION 7.** 48.98 (4) (a) of the statutes is amended to read:

10 48.98 (4) (a) This section applies only to interstate placements of children
11 which that are not governed by s. 48.988 or 48.99.
12

13 **SECTION 8.** 48.9895 of the statutes is created to read:

14 **48.9895 Withdrawal from Interstate Compact on the Placement of**
15 **Children.** Sections 48.988 and 48.989 do not apply to a child from this state who
16 is sent, brought, or caused to be sent or brought into another state under s. 48.988
17 (3) or who is placed in an institution in another state under s. 48.988 (6), or to a child
18 from another state who is sent, brought, or caused to be sent or brought into this state
19 under s. 48.988 (3) or who is placed in an institution in this state under s. 48.988 (6),
if all of the following have occurred:

20 (1) The Interstate Compact for the Placement of Children under s. 48.99 is in
21 effect as provided in s. 48.99 (14) (b).

22 (2) Both this state and the other state are parties to the Interstate Compact for
23 the Placement of Children under s. 48.99.

24 (3) Both this state and the other state have withdrawn from the Interstate
25 Compact on the Placement of Children as provided in s. 48.988 (9).

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1 **SECTION 9.** 48.99 of the statutes is created to read:

2 **48.99 Interstate Compact for the Placement of Children. (1) ARTICLE I**

3 - PURPOSE. The purpose of this compact is to do all of the following:

4 (a) Provide a process through which children who are subject to this compact
5 are placed in safe and suitable homes in a timely manner.

6 (b) Facilitate ongoing supervision of a placement, the delivery of services, and
7 communication between the states.

8 (c) Provide operating procedures that will ensure that children are placed in
9 safe and suitable homes in a timely manner.

10 (d) Provide for the promulgation and enforcement of administrative rules
11 implementing the provisions of this compact and regulating the covered activities of
12 the member states.

13 (e) Provide for uniform data collection and information sharing between
14 member states under this compact.

15 (f) Promote coordination between this compact, the Interstate Compact for
16 Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other
17 compacts affecting the placement of, and which provide services to, children who are
18 otherwise subject to this compact.

19 (g) Provide for a state to retain the continuing legal jurisdiction and
20 responsibility for placement and care of a child that the state would have had if the
21 placement were intrastate.

22 (h) Provide for the promulgation of guidelines, in collaboration with Indian
23 tribes, for interstate cases involving Indian children as is or may be permitted by
24 federal law.

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1 (2) ARTICLE II - DEFINITIONS. As used in this compact, unless the context clearly
2 requires a different construction:

3 (a) "Approved placement" means the receiving state has determined after an
4 assessment that the placement is both safe and suitable for the child and is in
5 compliance with the applicable laws of the receiving state governing the placement
6 of children in the receiving state.

7 (b) "Assessment" means an evaluation of a prospective placement to determine
8 whether the placement meets the individualized needs of the child, including the
9 child's safety and stability, health and well-being, and mental, emotional, and
10 physical development.

11 (c) "Child" means a person who has not attained the age of 18 years.

12 (d) "Default" means the failure of a member state to perform the obligations or
13 responsibilities imposed upon that state by this compact or by the bylaws or rules of
14 the interstate commission.

15 (e) "Indian tribe" means any Indian tribe, band, nation, or other organized
16 group or community of Indians that is recognized as eligible for services provided to
17 Indians by the U.S. secretary of the interior because of their status as Indians,
18 including an Alaskan native village, as defined in 43 USC 1602 (c).

19 (f) "Interstate commission" means the interstate commission for the placement
20 of children established under sub. (8) (a).

21 (g) "Jurisdiction" means the power and authority of a court to hear and decide
22 matters.

23 (h) "Member state" means a state that has enacted the enabling legislation for
24 this compact.

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1 (i) "Noncustodial parent" means a person who, at the time of the
2 commencement of court proceedings in the sending state, does not have sole legal
3 custody of the child or has joint legal custody of the child, and who is not the subject
4 of allegations or findings of child abuse or neglect.

5 (j) "Nonmember state" means a state that has not enacted the enabling
6 legislation for this compact.

7 (k) "Notice of residential placement" means information regarding a placement
8 into a residential facility that is provided to the receiving state including the name,
9 date, and place of birth of the child, the identity and address of the child's parent or
10 legal guardian, evidence of the authority to make the placement, and the name and
11 address of the facility in which the child will be placed. Notice of residential
12 placement also includes information regarding a discharge and any unauthorized
13 absence from the facility.

14 (L) "Placement" means the act by a public or private child placing agency that
15 is intended to arrange for the care or custody of a child in another state.

16 (m) "Private child placing agency" means any private corporation, agency,
17 foundation, institution, or charitable organization, or any private person or attorney,
18 that facilitates, causes, or is involved in the placement of a child from one state to
19 another state and that is not an instrumentality of the state or acting under color of
20 state law.

21 (n) "Provisional placement" means a proposed placement that the receiving
22 state has determined is safe and suitable and with respect to which the receiving
23 state, to the extent allowable, has temporarily waived its standards or requirements
24 that are otherwise applicable to prospective foster or adoptive parents so as to not
25 delay the placement. Completion of the receiving state's requirements regarding

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1 training for prospective foster or adoptive parents shall not delay an otherwise safe
2 and suitable placement.

3 (o) "Public child placing agency" means any government child welfare agency
4 or child protection agency or a private entity under contract with such an agency,
5 regardless of whether the agency or entity acts on behalf of a state, county,
6 municipality, or other governmental unit, that facilitates, causes, or is involved in
7 the placement of a child from one state to another state.

8 (p) "Receiving state" means the state to which a child is sent, brought, or caused
9 to be sent or brought.

10 (q) "Relative" means a person who is related to the child as a parent,
11 stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle,
12 or first cousin or a nonrelative with such significant ties to the child that the
13 nonrelative may be regarded as a relative as determined by the court in the sending
14 state.

15 (r) "Residential facility" means a facility providing a level of care that is
16 sufficient to substitute for parental responsibility or foster care and that is beyond
17 what is needed for assessment or treatment of an acute condition. For purposes of
18 this compact, residential facilities do not include institutions that are primarily
19 educational in character, hospitals, or other medical facilities.

20 (s) Except as provided in sub. (11) (g), "rule" means a written directive,
21 mandate, standard, or principle issued by the interstate commission and
22 promulgated under sub. (11) that is of general applicability; that implements,
23 interprets, or prescribes a policy or provision of the compact; and that has the force
24 and effect of law in a member state. "Rule" includes the amendment, repeal, or
25 suspension of an existing rule.

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1 (t) "Sending state" means the state from which the placement of a child is
2 initiated.

3 (u) "Service member's permanent duty station" means the military installation
4 where an active duty U.S. armed services member is currently assigned and is
5 physically located under competent orders that do not specify the duty as temporary.

6 (v) "Service member's state of legal residence" means the state in which an
7 active duty U.S. armed services member is considered a resident for tax and voting
8 purposes.

9 (w) "State" means a state of the United States, the District of Columbia, the
10 Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American
11 Samoa, the Northern Marianas Islands, or any other territorial possession of the
12 United States.

13 (x) "State court" means a judicial body of a state that is vested by law with
14 responsibility for adjudicating cases involving abuse, neglect, deprivation,
15 delinquency, or status offenses of children.

16 (y) "Supervision" means monitoring provided by a receiving state once a child
17 has been placed in the receiving state under this compact.

18 (3) ARTICLE III - APPLICABILITY. (a) Except as otherwise provided in par. (b), this
19 compact shall apply to all of the following:

20 1. The interstate placement of a child who is subject to ongoing court
21 jurisdiction in a sending state due to allegations or findings that the child has been
22 abused, neglected, or deprived, as defined by the laws of the sending state, except
23 that the placement of such a child into a residential facility shall only require notice
24 of residential placement to the receiving state prior to placement.

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1 2. The interstate placement of a child who has been adjudicated delinquent or
2 unmanageable based on the laws of a sending state and who is subject to the ongoing
3 court jurisdiction of the sending state if any of the following apply:

4 a. The child is being placed in a residential facility in another member state and
5 is not covered under another compact.

6 b. The child is being placed in another member state and the determination of
7 safety and suitability of the placement and services required cannot be provided
8 through another compact.

9 3. The interstate placement of any child by a public child placing agency or
10 private child placing agency as a preliminary step to a possible adoption.

11 (b) This compact shall not apply to any of the following:

12 1. The interstate placement of a child with a nonrelative in a receiving state
13 by a parent with the legal authority to make such a placement so long as the
14 placement is not intended to effectuate an adoption.

15 2. The interstate placement of a child by a relative with the legal authority to
16 make such a placement directly with another relative in a receiving state.

17 3. The placement of a child who is not subject to par. (a) into a residential
18 treatment facility by his or her parent.

19 4. The placement of a child with a noncustodial parent if all of the following
20 apply:

21 a. The noncustodial parent proves to the satisfaction of a court in the sending
22 state that he or she has a substantial relationship with the child.

23 b. The court in the sending state makes a written finding that placement with
24 the noncustodial parent is in the best interests of the child.

25 c. The court in the sending state dismisses its jurisdiction over the child's case.

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1 5. A child entering the United States from a foreign country for the purpose of
2 adoption in this country or leaving the United States to go to a foreign country for
3 the purpose of adoption in that country.

4 6. Cases in which a child who is a United States citizen living overseas with his
5 or her family, at least one member of which is in the U.S. armed services and
6 stationed overseas, is removed and placed in a state.

7 7. The sending of a child by a public child placing agency or a private child
8 placing agency to another state for a visit, as defined by the rules promulgated by the
9 interstate commission.

10 (c) For purposes of determining the applicability of this compact to the
11 placement of a child with a family member who is in the U.S. armed services, the
12 public child placing agency or private child placing agency may choose the state of
13 the service member's permanent duty station or the service member's declared state
14 of legal residence.

15 (d) Nothing in this compact shall be construed to prohibit the concurrent
16 application of this compact with other applicable interstate compacts including the
17 Interstate Compact for Juveniles and the Interstate Compact on Adoption and
18 Medical Assistance. The interstate commission may, in cooperation with other
19 interstate compact commissions having responsibility for the interstate movement,
20 placement, or transfer of children, promulgate like rules to ensure the coordination
21 of services, the timely placement of children, and the reduction of unnecessary or
22 duplicative administrative or procedural requirements.

23 **(4) ARTICLE IV - JURISDICTION.** (a) The sending state shall retain jurisdiction
24 over a child with respect to all matters of custody and disposition of the child over
25 which the sending state would have had jurisdiction if the child had remained in the

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1 sending state. That jurisdiction shall also include the power to order the return of
2 the child to the sending state.

3 (b) When an issue of child protection or custody is brought before a court in the
4 receiving state, that court shall confer with the court of the sending state to
5 determine the most appropriate forum for adjudication.

6 (c) In accordance with its own laws, the court in the sending state may
7 terminate its jurisdiction if any of the following apply:

8 1. The child is reunified with the parent in the receiving state who is the subject
9 of allegations or findings of abuse or neglect, but only with the concurrence of the
10 public child placing agency in the receiving state.

11 2. The child is adopted.

12 3. The child reaches the age of majority under the laws of the sending state.

13 4. The child achieves legal independence under the laws of the sending state.

14 5. A guardianship is created by a court in the receiving state with the
15 concurrence of the court in the sending state.

16 6. An Indian tribe has petitioned for and received jurisdiction from the court
17 in the sending state.

18 7. The public child placing agency of the sending state requests termination of
19 the jurisdiction of the court in the sending state and has obtained the concurrence
20 of the public child placing agency in the receiving state.

21 (d) When a sending state court terminates its jurisdiction, the receiving state
22 child placing agency shall be notified.

23 (e) Nothing in this subsection shall defeat a claim of jurisdiction by a receiving
24 state court sufficient to deal with an act of truancy, delinquency, crime, or behavior

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1 involving a child, as defined by the laws of the receiving state, committed by the child
2 in the receiving state that would be a violation of the laws of the receiving state.

3 (f) Nothing in this subsection shall limit the receiving state's ability to take
4 emergency jurisdiction for the protection of the child.

5 **(5) ARTICLE V - ASSESSMENTS.** (a) Before sending, bringing, or causing a child
6 to be sent or brought into a receiving state, the public child placing agency of the
7 sending state shall provide a written request for assessment to the receiving state.

8 (b) Before sending, bringing, or causing a child to be sent or brought into a
9 receiving state, the private child placing agency of the sending state shall do all of
10 the following:

11 1. Provide evidence that the applicable laws of the sending state have been
12 complied with.

13 2. In the case of a placement for adoption, certify that the birth parent's consent
14 to the adoption or relinquishment of the child is in compliance with the applicable
15 law of the birth parent's state of residence or, where permitted, the laws of the state
16 where finalization of the adoption will occur.

17 3. Request through the public child placing agency in the sending state an
18 assessment to be conducted in the receiving state.

19 4. Upon completion of the assessment, obtain the approval of the public child
20 placing agency in the receiving state.

21 (c) The request for assessment shall contain all information and be in such form
22 as provided for in the rules of the interstate commission and the procedures for
23 making a request shall be as provided in those rules.

24 (d) Upon receipt of a request from the public child welfare agency of the sending
25 state, the receiving state shall initiate an assessment of the proposed placement to

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1 determine the safety and suitability of that placement. If the proposed placement
2 is a placement with a relative, the public child placing agency of the sending state
3 may request a determination of whether the placement qualifies as a provisional
4 placement.

5 (e) The public child placing agency in the receiving state may request from the
6 public child placing agency or the private child placing agency in the sending state,
7 and shall be entitled to receive, supporting or additional information as necessary
8 to complete the assessment.

9 (f) The public child placing agency in the receiving state shall complete or
10 arrange for the completion of the assessment within the time frames established in
11 rules promulgated by the interstate commission.

12 (g) The interstate commission may develop uniform standards for assessing the
13 safety and suitability of interstate placements.

14 **(6) ARTICLE VI - PLACEMENT AUTHORITY.** (a) Except as provided in par. (c), no
15 child who is subject to this compact shall be placed into a receiving state until
16 approval for that placement is obtained from the public child placing agency in the
17 receiving state.

18 (b) If the public child placing agency in the receiving state does not approve the
19 proposed placement, then the child may not be placed. The receiving state shall
20 provide written documentation of any such determination in accordance with the
21 rules promulgated by the interstate commission. That determination is not subject
22 to judicial review in the sending state.

23 (c) 1. If the proposed placement is not approved, any interested party or person
24 shall have standing to seek an administrative review of the receiving state's
25 determination.

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1 2. The administrative review and any further judicial review associated with
2 the determination shall be conducted in the receiving state under its applicable
3 administrative procedures.

4 3. If a determination not to approve the placement of the child in the receiving
5 state is overturned upon review, the placement shall be considered approved, so long
6 as all administrative or judicial remedies have been exhausted or the time for
7 seeking those remedies has passed.

8 **(7) ARTICLE VII - STATE RESPONSIBILITY.** (a) For the interstate placement of a
9 child made by a public child placing agency or state court, financial responsibility
10 shall be allocated as follows:

11 1. The public child placing agency in the sending state shall be financially
12 responsible for all of the following:

13 a. Ongoing maintenance payments for the child during the period of the
14 placement, unless otherwise provided for in the receiving state.

15 b. Services for the child beyond the public services for which the child is eligible
16 in the receiving state, as determined by the public child placing agency in the sending
17 state.

18 2. The receiving state shall only have financial responsibility for all of the
19 following:

20 a. Any assessment conducted by the receiving state.

21 b. Supervision conducted by the receiving state at the level necessary to
22 support the placement as agreed upon by the public child placing agencies of the
23 receiving state and the sending state.

24 (am) Nothing in par. (a) shall prohibit a public child placing agency in a sending
25 state and a public child placing agency in a receiving state from entering into an

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1 agreement concerning the provision, or the allocation of the costs, of assessments and
2 supervision.

3 (b) For the placement of a child by a private child placing agency preliminary
4 to a possible adoption, the private child placing agency shall be responsible as
5 follows:

6 1. Legally responsible for the child during the period of placement as provided
7 for in the law of the sending state until the finalization of the adoption.

8 2. Financially responsible for the child absent a contractual agreement to the
9 contrary.

10 (c) A private child placing agency may also be responsible for any assessment
11 conducted in the receiving state and for any supervision conducted by the receiving
12 state at the level required by the laws of the receiving state or the rules of the
13 interstate commission.

14 (d) The public child placing agency in the receiving state shall provide timely
15 assessments, as provided for in the rules of the interstate commission.

16 (e) The public child placing agency in the receiving state shall provide, or
17 arrange for the provision of, supervision and services for the child, including timely
18 reports, during the period of the placement.

19 (f) Nothing in this compact shall be construed so as to limit the authority of the
20 public child placing agency in the receiving state from contracting with a licensed
21 agency or person in the receiving state for an assessment or for the provision of
22 supervision or services for the child or from otherwise authorizing the provision of
23 supervision or services by a licensed agency or person during the period of placement.

24 (g) Each member state shall provide for coordination among its branches of
25 government concerning the state's participation in, and compliance with, the

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compact and interstate commission activities, through the creation of an advisory council or the use of an existing body or board.

(h) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(i) The public child placing agency in the sending state shall oversee compliance with the federal Indian Child Welfare Act, 25 USC 1901 to 1963, prior to placement of an Indian child.

(j) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

(8) ARTICLE VIII - INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN. (a) There is created the interstate commission for the placement of children. The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall be a joint commission of the member states and shall have all of the responsibilities, powers, and duties set forth in this section and such additional powers as may be conferred upon the interstate commission by subsequent concurrent action of the respective legislatures of the member states.

(b) 1. The interstate commission shall consist of one commissioner from each member state who shall be appointed by the governor. The appointed commissioner may vote on policy-related matters governed by this compact.

2. Each member state represented at a meeting of the interstate commission is entitled to one vote.

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1 3. A majority of the member states shall constitute a quorum for the transaction
2 of business, unless a larger quorum is required by the bylaws of the interstate
3 commission.

4 4. A commissioner may not delegate a vote to another member state.

5 5. A commissioner may delegate voting authority to another person from the
6 commissioner's state for a specified meeting.

7 (c) In addition to the commissioners of each member state, the interstate
8 commission shall include persons who are members of interested organizations, as
9 defined in the bylaws or rules of the interstate commission. Those members shall not
10 be entitled to vote on any matter before the interstate commission.

11 (d) The interstate commission shall establish an executive committee that shall
12 have the authority to administer the day-to-day operations and administration of
13 the interstate commission. The executive committee may not engage in rule making.

14 **(9) ARTICLE IX - POWERS AND DUTIES OF THE INTERSTATE COMMISSION.** The
15 interstate commission shall have the power and duty to do all of the following:

16 (a) Promulgate rules and take all necessary actions to effect the goals,
17 purposes, and obligations enumerated in this compact.

18 (b) Provide for dispute resolution among member states.

19 (c) Issue, upon request of a member state, advisory opinions concerning the
20 meaning or interpretation of this compact or the bylaws, rules, or actions of the
21 interstate commission.

22 (d) Enforce compliance with this compact or the bylaws or rules of the interstate
23 commission under sub. (12).

24 (e) Collect standardized data concerning the interstate placement of children
25 who are subject to this compact as directed by its rules, which rules shall specify the

BILL**SECTION 9**

1 data to be collected, the means of collection, and data exchange and reporting
2 requirements.

3 (f) Establish and maintain offices as may be necessary for transacting the
4 business of the interstate commission.

5 (g) Purchase and maintain insurance and bonds.

6 (h) Hire or contract for the services of personnel or consultants as may be
7 necessary to carry out its functions under the compact and establish personnel
8 qualification policies and rates of compensation.

9 (i) Establish and appoint committees and officers including an executive
10 committee as required by sub. (10).

11 (j) Accept, receive, utilize, and dispose of donations and grants of money,
12 equipment, supplies, materials, and services.

13 (k) Lease, purchase, accept contributions or donations of, or otherwise own,
14 hold, improve, or use any property, real, personal, or mixed.

15 (L) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
16 dispose of any property, real, personal, or mixed.

17 (m) Establish a budget and make expenditures.

18 (n) Adopt a seal and bylaws governing the management and operation of the
19 interstate commission.

20 (o) Report annually to the legislatures, governors, judiciary, and state advisory
21 councils of the member states concerning the activities of the interstate commission
22 during the preceding year. Those reports shall also include any recommendations
23 that have been adopted by the interstate commission.

BILL

1 (p) Coordinate and provide education, training, and public awareness
2 regarding the interstate movement of children for officials who are involved in that
3 activity.

4 (q) Maintain books and records in accordance with the bylaws of the interstate
5 commission.

6 (r) Perform such functions as may be necessary to achieve the purposes of this
7 compact.

8 **(10) ARTICLE X - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.**

9 (a) *Bylaws.* 1. Within 12 months after the first interstate commission meeting, the
10 interstate commission shall adopt bylaws and rules to govern the conduct of the
11 interstate commission as may be necessary to carry out the purposes of the compact.

12 2. The bylaws and rules of the interstate commission shall establish conditions
13 and procedures under which the interstate commission shall make its information
14 and official records available to the public for inspection or copying. The interstate
15 commission may exempt from disclosure information or official records to the extent
16 that disclosure of the information or official records would adversely affect personal
17 privacy rights or proprietary interests.

18 (b) *Meetings.* 1. The interstate commission shall meet at least once each year.
19 The chairperson may call additional meetings and, upon the request of a simple
20 majority of the member states, shall call additional meetings.

21 2. Public notice shall be given by the interstate commission of all meetings, and
22 all meetings shall be open to the public, except as set forth in the rules or as otherwise
23 provided in the compact. The interstate commission or any of its committees may
24 close a meeting, or portion of a meeting, if the interstate commission or committee

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determines by a two-thirds vote that an open meeting would be likely to do any of the following:

a. Relate solely to the interstate commission's internal personnel practices and procedures.

b. Disclose matters that are specifically exempted from disclosure by federal law.

c. Disclose financial or commercial information that is privileged, proprietary, or confidential in nature.

d. Involve accusing a person of a crime or formally censuring a person.

e. Disclose information that is of a personal nature, if disclosure of the information would constitute a clearly unwarranted invasion of personal privacy or would physically endanger one or more persons.

f. Disclose investigative records that have been compiled for law enforcement purposes.

g. Specifically relate to the interstate commission's issuance of a subpoena or the participation of the interstate commission in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, that is closed under subd. 2., the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each provision under subd. 2. authorizing closure of the meeting. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons for those actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and

BILL

1 documents of a closed meeting shall remain under seal, subject to release by a
2 majority vote of the interstate commission.

3 4. The bylaws may provide for meetings of the interstate commission to be
4 conducted by telecommunication or electronic communication.

5 (c) *Officers and staff.* 1. The interstate commission may, through its executive
6 committee, appoint or retain a staff director for such period, upon such terms and
7 conditions, and for such compensation as the interstate commission may consider
8 appropriate. The staff director shall serve as secretary to the interstate commission,
9 but may not have a vote. The staff director may hire and supervise such other staff
10 as may be authorized by the interstate commission.

11 2. The interstate commission shall elect, from among its members, a
12 chairperson and a vice chairperson of the executive committee and other necessary
13 officers, each of whom shall have such authority and duties as may be specified in
14 the bylaws.

15 (d) *Qualified immunity, defense, and indemnification.* 1. The staff director,
16 employees, and representatives of the interstate commission shall be immune from
17 suit and liability, either personally or in their official capacity, for a claim for damage
18 to or loss of property, personal injury, or other civil liability caused by, arising out of,
19 or relating to an actual or alleged act, error, or omission that occurred within the
20 scope of interstate commission employment, duties, or responsibilities or that the
21 person had a reasonable basis for believing occurred within the scope of interstate
22 commission employment, duties, or responsibilities, except that this subdivision
23 does not protect any person from suit or liability for any damage, loss, injury, or
24 liability caused by a criminal act or the intentional or willful and wanton misconduct
25 of that person.

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1 2. The liability of the staff director, employees, and representatives of the
2 interstate commission, acting within the scope of that person's employment, duties,
3 or responsibilities, for any act, error, or omission occurring within that person's state
4 may not exceed the limits of liability set forth under the constitution and laws of that
5 state for state officials, employees, and agents, except that this subdivision does not
6 protect any person from suit or liability for any damage, loss, injury, or liability
7 caused by a criminal act or the intentional or willful and wanton misconduct of that
8 person. The interstate commission is considered to be an instrumentality of the state
9 for the purposes of any such action.

10 3. The interstate commission shall defend the staff director and employees of
11 the interstate commission and, subject to the approval of the attorney general or
12 other appropriate legal counsel of the member state, shall defend the commissioner
13 of a member state in any civil action seeking to impose liability arising out of an
14 actual or alleged act, error, or omission that occurred within the scope of interstate
15 commission employment, duties, or responsibilities or that the person had a
16 reasonable basis for believing occurred within the scope of interstate commission
17 employment, duties, or responsibilities, if the actual or alleged act, error, or omission
18 did not result from the intentional or willful and wanton misconduct of that person.

19 4. To the extent not covered by the state involved, the member state, or the
20 interstate commission, the staff director, employees, and representatives of the
21 interstate commission shall be held harmless in the amount of any settlement or
22 judgment, including attorney fees and costs, obtained against those persons arising
23 out of an actual or alleged act, error, or omission that occurred within the scope of
24 interstate commission employment, duties, or responsibilities or that the person had
25 a reasonable basis for believing occurred within the scope of interstate commission

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1 employment, duties, or responsibilities, if the actual or alleged act, error, or omission
2 did not result from the intentional or willful and wanton misconduct of that person.

3 **(11) ARTICLE XI - RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a)**

4 The interstate commission shall promulgate and publish rules in order to effectively
5 and efficiently achieve the purposes of the compact.

6 (b) Rule making shall occur under the criteria set forth in this subsection and
7 the bylaws and rules adopted under this subsection. Rule making shall substantially
8 conform to the principles of the Model State Administrative Procedures Act, 1981
9 Act, Uniform Laws Annotated, volume 15, page 1 (2000), or any other administrative
10 procedure act that the interstate commission considers appropriate, consistent with
11 the due process requirements under the U.S. Constitution. All rules and
12 amendments to the rules shall become binding as of the date specified in the final
13 rule or amendment as approved by the interstate commission.

14 (c) When promulgating a rule, the interstate commission shall do all of the
15 following:

16 1. Publish the entire text of the proposed rule and state the reason for the
17 proposed rule.

18 2. Allow and invite persons to submit written data, facts, opinions, and
19 arguments, which shall be added to the rule-making record and be made publicly
20 available.

21 3. Promulgate a final rule and its effective date, if appropriate, based on the
22 rule-making record, including input from state or local officials and other interested
23 parties.

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1 (d) Rules promulgated by the interstate commission shall have the force and
2 effect of law and shall supersede any state law, rule, or regulation to the extent of any
3 conflict.

4 (e) Not later than 60 days after a rule is promulgated, an interested person may
5 file a petition in the U.S. district court for the District of Columbia or in the federal
6 district court for the district in which the interstate commission's principal office is
7 located for judicial review of that rule. If the court finds that the interstate
8 commission's action is not supported by substantial evidence in the rule-making
9 record, the court shall hold the rule unlawful and set the rule aside.

10 (f) If a majority of the legislatures of the member states reject a rule by
11 enactment of a statute or resolution in the same manner used to adopt the compact,
12 the rule shall have no further effect in any member state.

13 (g) The rules governing the operation of the Interstate Compact on the
14 Placement of Children under ss. 48.988 and 48.989 shall be void no less than 12, but
15 no more than 24, months after the first meeting of the interstate commission, as
16 determined by the members during the first meeting.

17 (h) Within the first 12 months of operation, the interstate commission shall
18 promulgate rules addressing all of the following:

- 19 1. Transition from the Interstate Compact on the Placement of Children.
- 20 2. Forms and procedures.
- 21 3. Timelines.
- 22 4. Data collection and reporting.
- 23 5. Rule making.
- 24 6. Visitation.
- 25 7. Progress reports and supervision.

BILL

1 8. Sharing of information and confidentiality.

2 9. Financing of the interstate commission.

3 10. Mediation, arbitration, and dispute resolution.

4 11. Education, training, and technical assistance.

5 12. Enforcement.

6 13. Coordination with other interstate compacts.

7 (i) 1. Upon determination by a majority of the members of the interstate
8 commission that an emergency exists, the interstate commission may promulgate an
9 emergency rule, but only if the rule is required to do any of the following:

10 a. Protect the children covered by this compact from an imminent threat to
11 their health, safety, and well-being.

12 b. Prevent the loss of federal or state funds.

13 c. Meet a deadline for the promulgation of an administrative rule required by
14 federal law.

15 2. An emergency rule shall become effective immediately upon promulgation
16 so long as the usual rule-making procedures provided under this subsection are
17 retroactively applied to the rule as soon as is reasonably possible, but no later than
18 90 days after the effective date of the emergency rule.

19 3. An emergency rule shall be promulgated as provided for in the rules of the
20 interstate commission.

21 **(12) ARTICLE XII - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a)
22 *Oversight.* 1. The interstate commission shall oversee the administration and
23 operations of the compact.

24 2. The executive, legislative, and judicial branches of state government in each
25 member state shall enforce this compact and the rules of the interstate commission

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1 a. Provide remedial training and specific technical assistance.

2 b. Provide written notice to the defaulting state and other member states of the
3 nature of the default and the means of curing the default. The interstate commission
4 shall specify the conditions by which the defaulting state must cure its default.

5 c. By a majority vote of the members, initiate against a defaulting member state
6 legal action in the U.S. district court for the District of Columbia or, at the discretion
7 of the interstate commission, in the federal district court for the district in which the
8 interstate commission has its principal offices, to enforce compliance with the
9 compact, the bylaws, or the rules. The relief sought may include both injunctive
10 relief and damages. If judicial enforcement is necessary, the prevailing party shall
11 be awarded all costs of the litigation including reasonable attorney fees.

12 d. Avail itself of any other remedies available under state law or the regulation
13 of official or professional conduct.

14 **(13) ARTICLE XIII - FINANCING OF THE INTERSTATE COMMISSION.** (a) The
15 interstate commission shall pay or provide for the payment of the reasonable
16 expenses of its establishment, organization, and ongoing activities.

17 (b) The interstate commission may levy on and collect an annual assessment
18 from each member state to cover the cost of the operations and activities of the
19 interstate commission and its staff. The aggregate amount of the annual assessment
20 shall be in an amount that is sufficient to cover the annual budget of the interstate
21 commission, as approved by its members each year, and shall be allocated based upon
22 a formula to be determined by the interstate commission, which shall promulgate a
23 rule binding upon all member states that governs the assessment.

24 (c) The interstate commission may not incur obligations of any kind before
25 securing funds adequate to meet those obligations; nor may the interstate

BILL**SECTION 9**

1 and shall take all actions that are necessary to effectuate the purposes and intent of
2 the compact. The compact and its rules shall supersede state law, rules, or
3 regulations to the extent of any conflict.

4 3. All courts shall take judicial notice of the compact and the rules in any
5 judicial or administrative proceeding in a member state pertaining to the subject
6 matter of the compact.

7 4. The interstate commission shall be entitled to receive service of process in
8 any action in which the validity of a compact provision or rule is the issue for which
9 a judicial determination has been sought and shall have standing to intervene in the
10 action. Failure to provide service of process to the interstate commission shall render
11 any judgment, order, or other determination, however captioned or classified, void
12 as to the interstate commission, this compact, or the bylaws or rules of the interstate
13 commission.

14 (b) *Dispute resolution.* 1. The interstate commission shall attempt, upon the
15 request of a member state, to resolve any dispute that is subject to the compact and
16 that may arise among member states or between member states and nonmember
17 states.

18 2. The interstate commission shall promulgate a rule providing for both
19 mediation and binding dispute resolution for disputes among member states. The
20 costs of that mediation or dispute resolution shall be the responsibility of the parties
21 to the dispute.

22 (c) *Enforcement.* 1. If the interstate commission determines that a member
23 state has defaulted in the performance of its obligations or responsibilities under this
24 compact or the bylaws or rules of the interstate commission, the interstate
25 commission may do any of the following:

BILL**SECTION 9**

1 commission pledge the credit of any member state, except by and with the authority
2 of the member state.

3 (d) The interstate commission shall keep accurate accounts of all receipts and
4 disbursements. The receipts and disbursements of the interstate commission shall
5 be subject to the audit and accounting procedures established under its bylaws. All
6 receipts and disbursements of funds handled by the interstate commission shall be
7 audited yearly by a certified or licensed public accountant, and the report of the audit
8 shall be included in and become a part of the annual report of the interstate
9 commission.

10 (14) ARTICLE XIV - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT. (a) Any
11 state is eligible to become a member state.

12 (b) The compact shall become effective and binding upon legislative enactment
13 of the compact into law by no less than 35 of the states. The initial effective date shall
14 be July 1, 2007, or upon enactment of the compact into law by the 35th state,
15 whichever is later. After that initial effective date, the compact shall become
16 effective and binding as to any other member state upon enactment of the compact
17 into law by that member state. The governors of nonmember states or their
18 designees shall be invited to participate in the activities of the interstate commission
19 on a nonvoting basis before adoption of the compact by all states.

20 (c) The interstate commission may propose amendments to the compact for
21 enactment by the member states. An amendment does not become effective and
22 binding on the member states until the amendment is enacted into law by
23 unanimous consent of the member states.

24 (15) ARTICLE XV - WITHDRAWAL AND DISSOLUTION. (a) *Withdrawal*. 1. Once
25 effective, the compact shall continue in force and remain binding upon each member

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1 state, except that a member state may withdraw from the compact by specifically
2 repealing the statute that enacted the compact into law in that state.

3 2. Withdrawal from this compact by a member state shall be by the enactment
4 of legislation repealing the statute that enacted the compact into law in that member
5 state. The effective date of a withdrawal by a member state shall be the effective date
6 of the repeal of that statute.

7 3. A withdrawing state shall immediately notify the president of the interstate
8 commission in writing upon the introduction of legislation repealing the compact in
9 the withdrawing state. Within 60 days after receipt of that notice, the interstate
10 commission shall notify the other member states of the withdrawing state's intent
11 to withdraw.

12 4. A withdrawing state is responsible for all assessments, obligations, and
13 liabilities incurred to the effective date of the withdrawal.

14 5. Reinstatement in the compact following the withdrawal of a member state
15 shall occur upon the withdrawing state reenacting the compact or upon such later
16 date as determined by the interstate commission.

17 (b) *Dissolution of compact.* 1. This compact shall dissolve upon the effective
18 date of a withdrawal or default of a member state that reduces the membership in
19 the compact to one member state.

20 2. Upon dissolution of this compact, the compact becomes void and shall be of
21 no further effect, the business and affairs of the interstate commission shall be
22 concluded, and any surplus funds shall be distributed in accordance with the bylaws.

23 (16) ARTICLE XVI - CONSTRUCTION. (a) The provisions of this compact shall be
24 liberally construed to effectuate its purposes.

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1 (b) Nothing in this compact shall be construed to prohibit the concurrent
2 applicability of other interstate compacts to which the states are members.

3 (17) ARTICLE XVII - BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) *Other*
4 *laws*. 1. This compact does not prevent the enforcement of any other law of a member
5 state that is not inconsistent with this compact.

6 2. All member states' laws that conflict with this compact or its rules are
7 superseded to the extent of the conflict.

8 (b) *Binding effect of compact*. 1. All lawful actions of the interstate commission,
9 including all rules and bylaws promulgated by the interstate commission, are
10 binding upon the member states.

11 2. All agreement between the interstate commission and the member states are
12 binding in accordance with their terms.

13 3. If a provision of this compact exceeds the constitutional limits imposed on
14 the legislature of any member state, that provision shall be ineffective in that
15 member state to the extent of the conflict with the constitutional provision in
16 question.

17 (18) ARTICLE XVIII - INDIAN TRIBES. Notwithstanding any other provision in
18 this compact, the interstate commission may promulgate guidelines to permit Indian
19 tribes to use the compact to achieve any of the purposes of the compact as specified
20 in sub. (1). The interstate commission shall make reasonable efforts to consult with
21 the Indian tribes in promulgating guidelines to reflect the diverse circumstances of
22 the various Indian tribes.

23 **SECTION 10.** 632.896 (1) (c) 3. of the statutes is amended to read:

24 632.896 (1) (c) 3. A sending agency, as defined in s. 48.988 (2) (d), places a child
25 in the insured's home under s. 48.988 for adoption, or a public child placing agency,

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1 as defined in s. 48.99 (2) (o), or a private child placing agency, as defined in s. 48.99
2 (2) (m), of a sending state, as defined in s. 48.99 (2) (t), places a child in the insured's
3 home under s. 48.99 as a preliminary step to a possible adoption, and the insured
4 takes physical custody of the child at any location within the United States.

5 **SECTION 11.** 938.988[✓] of the statutes is amended to read:

6 **938.988 Interstate placement of juveniles.** Sections 48.988 and 48.989
7 apply to the interstate placement of juveniles, except that s. 48.99, rather than those
8 sections, applies to the interstate placement of juveniles following withdrawal from
9 the Interstate Compact on the Placement of Children as described in s. 48.9895.

10 **SECTION 12.** 938.999[✓] (1) (b) 13. of the statutes is amended to read:

11 938.999 (1) (b) 13. Coordinate the implementation and operation of this
12 compact with the Interstate Compact on the Placement of Children under ss. 48.988
13 and 48.989, the Interstate Compact for the Placement of Children under s. 48.99, the
14 Interstate Compact for Adult Offender Supervision under s. 304.16, and other
15 compacts affecting juveniles, particularly in those cases in which concurrent or
16 overlapping supervision issues arise.

17 **SECTION 13.** 938.999 (3) (c) of the statutes is amended to read:

18 938.999 (3) (c) In addition to the commissioners who are the voting
19 representatives of each compacting state, the interstate commission shall include,
20 as nonvoting members, persons who are members of interested organizations. Those
21 nonvoting members shall include members of the national organizations of
22 governors, legislators, state supreme court chief justices, attorneys general, juvenile
23 justice and juvenile corrections officials, and crime victims and members of the
24 Interstate Compact on the Placement of Children, the Interstate Compact for the
25 Placement of Children, and the Interstate Compact for Adult Offender Supervision.

BILL**SECTION 13**

1 The interstate commission may provide in the bylaws for the inclusion of additional
2 nonvoting members, including members of other national organizations, in such
3 numbers as may be determined by the interstate commission.

4 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0173/4ins
GMM.....

(INSERT 5-11)

✓
SECTION 1. 48.988 (8) (a) of the statutes is amended to read:

48.988 (8) (a) The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or non-agency guardian in the receiving state if the person who sends, brings, or causes a child to be sent or brought into a receiving state is a person whose full legal right to plan for the child has been established by law at a time prior to initiation of the placement arrangement and has not been voluntarily terminated or diminished or severed by the action or order of any court.

History: 1977 c. 354; Stats. 1977 s. 48.99; 1977 c. 447; Stats. 1977 s. 48.988; 1981 c. 390; 1983 a. 189; 1985 a. 29 s. 3202 (23); 1987 a. 403; 1993 a. 326; 1997 a. 104; 1999 a. 32; 2001 a. 59; 2005 a. 443.

(END OF INSERT)

(INSERT A)

(no 14) ← X Currently, that compact does not apply to the sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or non-agency guardian in the receiving state. This bill provides that the sending or bringing of a child into a receiving state by such a person is exempt from that compact only if the person is a person whose full legal right to plan for the child has been established by law prior to initiation of the placement arrangement and has not been voluntarily terminated or diminished or severed by the action or order of any court.

(END OF INSERT)

Malaise, Gordon

From: Connolly, Cathleen - DHFS
Sent: Tuesday, October 09, 2007 2:39 PM
To: Malaise, Gordon; Matthews, Pam
Cc: Campbell, Mark D - DHFS; Durkin, Therese A - DHFS; Jones, Jennifer A - DHFS; Langer, Dale W - DHFS; Mitchell, Mark S - DHFS; Plona, Katie P - DHFS
Subject: RE: Request for drafting - ICPC

Hi Gordon,

Rep. Jeskewitz has agreed to author the Interstate Compact on/for the Placement of Children bills for the Dept. but she would like to keep the new ICPC bill alone as its own bill. Then the two changes that impact the current ICPC would be a second bill. The second bill would contain Section 5 of LRB 07-0173/3, and the first item in my e-mail below. The Department is requesting that LRB 07-1713/3 have section 5 removed, and that the second bill be drafted.
Thank you.

Cathleen Connolly
Legislative and Policy Consultant
Bureau of Programs and Policies
Division of Children and Family Services Department of Health and Family Services
608-261-8306
connoc1@dhfs.state.wi.us

>>> "Malaise, Gordon" <Gordon.Malaise@legis.wisconsin.gov> 7/23/2007
>>> 3:20 PM >>>
Cathy:

I can draft up the first change.

The second change is already included in SECTION 5 of LRB07-0173/3.
Specifically, the SECTION strikes out "Notwithstanding s. 48.988" and substitutes "Subject to ss. 48.988 and 48.99".

Gordon

-----Original Message-----

From: Connolly, Cathleen - DHFS
Sent: Monday, July 23, 2007 11:04 AM
To: Malaise, Gordon
Cc: Durkin, Therese A - DHFS; Kritz, Brenda R - DHFS; Langer, Dale W - DHFS; Lehr, Lynn M - DHFS; LeMay, Tammara D - DHFS; Mitchell, Mark S - DHFS; Paul, June C - DHFS
Subject: Request for drafting - ICPC

Hi Gordon,

Request for drafting * Interstate Compact on the Placement of Children

The Department is requesting modification to bill draft LRB 07-0173/3 which contains the new Interstate Compact for the Placement of Children.
The Department is seeking two changes that impact the current Interstate Compact on the Placement of Children as set out in s. 48.988, Stats., and would like those changes placed in the same bill draft.

The first change is to s. 48.988(8)(a), Stats., to clarify the ICPC's application to a child's case under court jurisdiction. Program staff would like it to read, "The sending or bringing of a child into the receiving state by a parent, stepparent, grandparent, adult brother or sister, adult aunt or uncle, or a guardian and leaving with any such relative or non-agency guardian in the receiving state provided that such person who brings, sends, or causes a child to be sent or brought to a receiving state is a person whose full legal right to plan for the child: (1) has been established by law at a time prior to initiation of the placement arrangement, and (2) has not been voluntarily terminated, or diminished or severed by the

action or order of any court." (Change underlined.) This language comes from ICPC Regulation 3.6(a).

The second change is to s. 48.837(1m), Stats., to remove a change that was made last session with Act 293. Currently the law states, "Notwithstanding. 48.988, when the proposed adoptive parent or parents of a child reside *" The Department would like the phrase "notwithstanding s. 48.988," to be removed. As currently drafted the law arguably allows certain children to be placed out of state with proposed adoptive parents without complying with the ICPC. However, since Wisconsin is a member of the Compact, state law cannot override the ICPC, or direct individuals to ignore its requirements.

The Department would like the effective dates for the two new provisions to be the standard effective date (day after date of publication).

As always please call or e-mail if you have questions.

Cathleen Connolly
Legislative and Policy Consultant
Bureau of Programs and Policies
Division of Children and Family Services Department of Health and Family Services
608-261-8306
connoc1@dhfs.state.wi.us